

Application No. 10/775,000
Applicant(s): Cullinan
Docket No.: D546.5.1CIP

Examiner: Gary Chapman Hoge
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REMARKS

Election of Species

The Examiner states that the claims are directed to the following patentability distinct species and requires applicant elect a single disclosed species for prosecution on the merits under 35 U.S.C. 121:

Species I, Figs. 2-4;

Species II, Figs. 5-7;

Species III, Figs. 8-10, 12a and 12b;

Species IV, Fig. 11;

Species V, Fig. 13;

Species VI, Figs. 14-16;

Species VII, Fig. 17; and

Species VIII, Fig. 18.

In response, appellant provisionally elects Species VI (Figs. 14-16) with traverse. Claims 1-3, 9-12, 14, 15, 18, 20 read on species VI of Fig. 14-16 consistent with the following remarks. Claims 17, 21 and 22 are also believed not to be subject to restriction as they merely claim the invention in varying scope of definition as noted below.

Claim 1.

The Examiner's restriction requirement is predicated on the various species of menu section set forth in the cited figures. It is to be noted that parts a) and b) of claim 1 also recite a frame (54) with a top (132), bottom (133), and two parallel sides (130, 131) that defines frame space (55). Frame space (55) that must be filled with interchangeable menu

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sections 74, 76, and 78 of one or more heights. Generic claim 1 reads on the various menu-section species (Species I-VIII) including elected Species VI provided that it is understood that each of the recited menu section Species I-VIII are each associated with the frame/menu section parameters of Fig. 1 and read on by parts a) and b) of claim 1.

Claim 2.

With regard to claim 2, it is noted that Figs. 14-16 do not explicitly illustrate a presentation strip. However, it is believed that this claim reads on Figs. 14-16 in view of the fact that the specification specifically recites that presentation strips "have been omitted for the sake of clarity" (specification, page 17, lines 11-12). There strips are shown in other figures, e.g., Fig. 2 (specification, page 10, lines 28-30).

Claims 9-11.

Claims 9-11 are directed to menu-section securing means associated with the frame 54 set forth in Fig. 1. Claim 9 is generic with respect to a frame-associated, menu-section securing means while claim 10 reads on frame-associated menu-section securing retainer 160 (Fig. 4) while claim 11 further defines the securing retainer 160 as having being provided with a latch 171 (Fig. 4). In view of the fact that the election of species is predicated on the basis of various forms of the menu section and claims 9-11 make no changes to the menu section, applicant submits that they read on the Species VI menu section of Figs. 14-16 in view of the definition of the menu section found in claim 1, part c) from which these claims depend.

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Claims 17, 21 and 22.

Claims 17, 21 and 22 are directed to the Species VIII of Fig. 18. As noted at page 18, lines 21-22, Fig. 18 includes all of the features shown in Figs. 14-16 with the addition of catch 305 and end cap 400. In view of the fact that all of the features of Fig. 18 could have been incorporated into Figs. 14-16 as a single embodiment without impacting the claims, applicant contends that claims 17, 21, and 22 are merely different definitions of the same disclosed subject matter varying in breath or scope of definition and not subject to restriction. MPEP 806.03.

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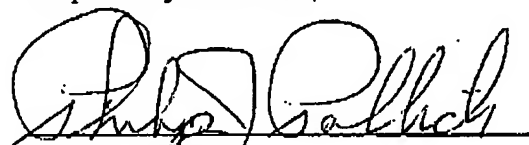
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CONCLUSION

In view of the above, it is submitted that the claims are in condition for allowance. If any questions should arise with respect to the above remarks, or if it would in any way expedite the prosecution of this case, applicant's attorney would appreciate a phone call at (614) 562-4280.

Respectfully submitted,

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Date


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CERTIFICATE OF TRANSMISSION/MAILING (37 CFR 1.8a)

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Signature

Mary L. Pollick